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| APPLICATION NO.             | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------------------|-------------|----------------------|---------------------|------------------|
| 10/092,792                  | 03/07/2002  | Marcel J.G. Janssen  | 2001B031A           | 2963             |
| 23455                       | 7590        | 04/20/2004           | EXAMINER            |                  |
| EXXONMOBIL CHEMICAL COMPANY |             |                      | LANGEL, WAYNE A     |                  |
| P O BOX 2149                |             |                      | ART UNIT            | PAPER NUMBER     |
| BAYTOWN, TX 77522-2149      |             |                      | 1754                |                  |

DATE MAILED: 04/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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| EXAMINER |
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DATE MAILED:

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

- ☒ This application has been examined ☐ Responsive to communication filed on \_\_\_\_\_ ☐ This action is made final.
- A shortened statutory period for response to this action is set to expire ONE month(s), \_\_\_\_\_ days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

1. ☐ Notice of References Cited by Examiner, PTO-892.
2. ☐ Notice of Draftsman's Patent Drawing Review, PTO-948.
3. ☐ Notice of Art Cited by Applicant, PTO-1449.
4. ☐ Notice of Informal Patent Application, PTO-152.
5. ☐ Information on How to Effect Drawing Changes, PTO-1474.
6. ☐ \_\_\_\_\_

**Part II SUMMARY OF ACTION**

1. ☒ Claims 1-42 are pending in the application.  
Of the above, claims \_\_\_\_\_ are withdrawn from consideration.  
\_\_\_\_\_ have been cancelled.
2. ☐ Claims \_\_\_\_\_ are allowed.
3. ☐ Claims \_\_\_\_\_ are rejected.
4. ☐ Claims \_\_\_\_\_ are objected to.
5. ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.
6. ☒ Claims 1-42 are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 2-18, drawn to a silicoaluminophosphate molecular sieve, classified in Class 423, subclass 327.1.

II. Claims 19-26, drawn to a process for making an olefin product, classified in Class 585, subclass 350.

III. Claims 27-36, drawn to a silicoaluminophosphate molecular sieve, classified in Class 423, subclass 327.1.

IV. Claims 37-42, drawn to a method for preparing a molecular sieve, classified in Class 423, subclass 327.1.

Claim 1 link(s) inventions I, II and IV. The restriction requirement among the linked inventions is subject to the non-allowance of the linking claim(s), claim 1. Upon the allowance of the linking claim(s), the restriction requirement as to the linked inventions shall be withdrawn and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) will be entitled to examination in the instant application. Applicant(s) are advised that if any such claim(s) depending from or including all the limitations of the allowable linking claim(s) is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims

of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. § 121 are no longer applicable. See *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the process for using the product as claimed can be practiced with another materially different product, such as one which does not include the details as recited in claims 2-18.

The inventions of Groups I and III are separate and distinct since neither invention would be obvious over the other, since the Group I claims require that the molecular sieve have at least one intergrown phase of molecular sieves having AEI and CHA framework types, which is not required by the molecular sieve of the Group III claims, and the Group III claims require the specifically recited X-ray diffraction pattern as recited in

claim 27, which is not required by the Group I claims. Claim 7 is separate and distinct from claims 27-36 since claims 1-6 and 8-18 are evidence that claim 7 does not depend upon the details of claim 27 for patentability.

Inventions I and IV are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the process as claimed can be used to make other and materially different products, such as ones which do not possess the details as recited in claims. 2-18. Inventions II and III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the process as claimed can be practiced with another materially different product, such as one which does not include the details as recited in claims 27-36.

Inventions II and IV are related as process of making and

process of using the product. The use as claimed cannot be practiced with a materially different product. Since the product is not allowable, restriction is proper between said method of making and method of using. The product claim will be examined along with the elected invention (MPEP § 806.05(i)).

Inventions III and IV are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the process as claimed can be used to make a materially different product, such as one which does not include all the details as recited in claims 27-36.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in

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compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wayne A. Langel whose telephone number is (571) 272-1353. The examiner can normally be reached on Monday through Friday from 8 A.M. to 3:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on (571) 272-1358. The fax phone number for this Group is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or public PAIR. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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WAL:cdc

April 16, 2004

WAYNE A. LANGE  
PRIMARY EXAMINER